

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	
	:	
-v-	:	98cr778 (DLC)
	:	
CHARLES MICHAEL KEE,	:	
	:	<u>ORDER</u>
Defendant.	:	
	:	
-----X		

DENISE COTE, District Judge:

On September 1, 2020, Charles Michael Kee filed a motion for reduction or modification of his sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). That motion was denied on September 9. United States v. Kee, 2020 WL 5441583, at *1 (S.D.N.Y. Sept. 9, 2020). It explained that Kee had not complied with the statutory exhaustion requirement, demonstrated extraordinary and compelling circumstances that justified early release, or shown that the factors set forth in 18 U.S.C. § 3553(a) weighed in favor of such release. Id.

Kee renewed his motion for compassionate release in a petition dated October 6, 2020.¹ Attached to the October 6 petition is a response from the warden of Kee's facility denying his request to be released to home confinement, dated August 19, 2020.

¹ The October 6 motion was received and docketed by this chambers on October 16.


Once a petitioner fulfills the statutory exhaustion requirement, the Court may reduce the petitioner's sentence, if after consideration of the factors set forth in 18 U.S.C. § 3553(a), it finds that "extraordinary and compelling reasons" warrant such a reduction. 18 U.S.C. § 3582(c)(1)(A)(i). As the Court of Appeals for the Second Circuit has explained, in the wake of the First Step Act of 2018, Pub. L. 115-391, 132 Stat. 5194, district courts are tasked with "independently . . . determin[ing] what reasons, for purposes of compassionate release, are extraordinary and compelling." United States v. Brooker, 976 F.3d 228, 234 (2d Cir. 2020) (citation omitted).

Kee's renewed motion is denied. It is assumed that Kee has fulfilled the exhaustion requirement. But, for the reasons stated in the September 9 denial, he has not demonstrated extraordinary circumstances that warrant a reduction of sentence and the § 3553(a) factors remain weighted against his early release.

Conclusion

Kee's October 6, 2020 motion is denied.

Dated: New York, New York
November 10, 2020



DENISE COTE
United States District Judge

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